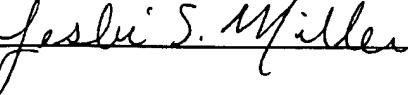


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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional) 030036U1
<p>I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]</p> <p>on <u>July 6, 2009</u></p> <p>Signature </p> <p>Typed or printed Leslie S. Miller name _____</p>		<p>Application Number 10534416</p> <p>Filed 2007-07-30</p> <p>First Named Inventor BAKER, Kenneth</p> <p>Art Unit 2617</p> <p>Examiner Phuoc Huu Doan</p>

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

applicant/inventor.

assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

attorney or agent of record. 46,341
Registration number _____

attorney or agent acting under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34 _____



Signature

Linda G. Gunderson

Typed or printed name

858-651-7351

Telephone number

July 6, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.
Submit multiple forms if more than one signature is required, see below*.

<input checked="" type="checkbox"/>	*Total of <u>1</u> forms are submitted.
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This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.	:	10/534,416	Confirmation No.	7440
Applicant	:	Kenneth Baker		
Filed	:	July 30, 2007		
Art Unit	:	2617		
Examiner	:	Phuoc Huu Doan		
Docket No.	:	030036U1		
Customer No.	:	23696		

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

The present patent application has been reviewed in light of the final office action, dated March 5, 2009, in which the claims 1-37 are rejected under 35 U.S.C. § 102(e) as being anticipated by Stein et al., U.S. Publication No. 2003/0008669 (hereinafter “Stein”). Assignee respectfully traverses these rejections.

I. Clear Error With Respect to Independent Claims 1, 6, 12, 17, 21, 26, 30, 34, and 36

Because the Final Office Action fails to show that each and every element of the claims is taught or suggested in the applied document, the rejections under 35 U.S.C. § 102(e) are clearly erroneous.

For example, Stein appears to show a system for determining a position of a terminal under the coverage of a repeater in a wireless communication system. However, Stein does not disclose “receiving information...from a repeater through a base station of a set of base stations, the information being indicative of signals of said set of base stations that said repeater can detect” (emphasis added) as recited in claim 1. In the final office action, the Examiner

relies on the statement that “Repeaters may also be used to extend coverage into rural areas” from paragraph [0004] of Stein for support for the Examiner’s assertion that Stein discloses “the information being indicative of signals of a set of base stations that a repeater can detect” (page 3 of the final office action). There is absolutely no disclosure in paragraph [0004] or anywhere else in Stein of receiving information from a repeater indicative of signals of the set of base stations that the repeater can detect, as recited in claim 1. The examiner also mentions paragraphs [0057] and [0154], although these paragraphs appear to be mentioned in support of the Examiner’s assertion that Stein discloses communicating from a repeater through a base station of a set of base stations. Paragraph [0057] appears to discuss a repeater depicted in Fig. 3. Paragraph [0057] appears to describe the repeater as providing communication between one or more mobile terminals and a serving base station. There is no disclosure in paragraph [0057] of a repeater providing information regarding a set of base stations that are detectable by the receiver. Similarly, paragraph [0154] appears to describe estimating a position of a mobile terminal based on an identification of a repeater serving the mobile terminal, but there is no disclosure of the repeater providing information regarding a set of base stations that are detectable by the receiver. Assignee respectfully submits that there is no disclosure in the above-mentioned paragraphs or anywhere else in Stein of a repeater providing information regarding a set of base stations detectable by the repeater.

Additionally, Stein does not disclose “updating a neighbor list based on the received information” (emphasis added) as recited in claim 1. At page 3 of the final office action, the Examiner relies on paragraphs [0049] and [0108] for support for the Examiner’s assertion that Stein discloses updating a neighbor list based on the received information. However, paragraph [0049] merely discloses that base stations are assigned unique PN sequences to allow terminals to identify the base station pilot signals. There is no disclosure of a repeater identifying base station pilot signals at paragraph [0049]. Further, paragraph [0108] of Stein discloses that a

neighbor list associated with a base station may include nearby base stations that are candidates for a handoff for a terminal. The terminal may be provided with the neighbor list associated with the base station with which it communicates, and the terminal may consult the neighbor list as the terminal searches for strong signals to determine whether or not a handoff is required. However, there is no disclosure in this paragraph or in any other passage of Stein of a neighbor list being updated with information regarding a set of base stations that are detectable by a repeater. The Examiner has not shown a single passage from Stein disclosing a repeater providing information regarding a set of base stations detectable by the repeater. Nor has the Examiner provided any passage from Stein disclosing updating a neighbor list based on the received information from the repeater.

Because the Final Office Action fails to show a teaching of at least the claim elements “receiving information...from a repeater through a base station of a set of base stations, the information being indicative of signals of said set of base stations that said repeater can detect” (emphasis added) as recited in claim 1, the rejection of claim 1 is clearly erroneous. Independent claims 6, 12, 17, 21, 26, 30, 34, and 36 recite elements similar to those discussed above in connection with independent claim 1, and their rejections are clearly erroneous for similar reasons. All of the dependent claims are erroneously rejected at least due to their dependence on claims 1, 6, 12, 17, 21, 26, 30, 34, and 36.

II. Clear Error In At Least Dependent Claims 3-4, 7-8, 14-15, 18-19, 23-24, 27-28, and 31-32

Dependent claims 3, 7, 14, 18, 23, 27, and 31 all include elements related to a repeater providing information including a set of phase offsets detected from signals from the set of base stations detectable by the repeater, and their rejections are clearly erroneous due to the applied document failing to teach these additional elements. The rejections are further erroneous because the Examiner appears to ignore the portions of the above claims related to the repeater

providing information including a set of phase offsets detected from signals from the set of base stations detectable by the repeater.

For example, with respect to claim 3, Stein does not disclose “wherein the information identifies a set of phase offsets detected from the signals of the set of base stations” (emphasis added) as recited in claim 3. In the final office action, at page 4, the Examiner provides paragraph [0057] of Stein for support for the Examiner’s assertion that Stein anticipates the above-recited elements of claim 3. However, as noted previously, paragraph [0057] describes the repeater as providing communication between one or more mobile terminals and a serving base station. There is absolutely no disclosure in paragraph [0057] or anywhere else in Stein of a repeater providing a set of phase offsets detected from signals from the set of base stations detectable by the repeater, and the rejection to claim 3 is clearly erroneous. Claims 7, 14, 18, 23, 27, and 31 include elements similar to those recited in claim 3, and the rejections to these claims are also clearly erroneous.

Dependent claims 4, 8, 15, 19, 24, 28, and 32 all include elements related to a repeater providing information including identification codes detected from the signals of the set of base stations detectable by the repeater, and their rejections are clearly erroneous due to the applied document failing to teach these additional elements.

For example, with respect to claim 4, Stein does not disclose “wherein the information includes identification codes detected from the signals of the set of base stations” (emphasis added) as recited in claim 4. As described above, there is no disclosure in Stein of a repeater providing information regarding a set of base stations detectable by the repeater. Further, with respect to the recited elements of claim 4, there is no disclosure anywhere in Stein of a repeater providing identification codes detected from signals from the set of base stations detectable by the repeater. At page 4 of the final office action, the Examiner provides paragraphs [0051]-[0055] of Stein for support for the Examiner’s assertion that Stein anticipates the above-recited

elements of claim 4. However, paragraphs [0051]-[0055] of Stein describe using PN sequences as identification codes for repeaters. Assignee respectfully submits that there is no disclosure in paragraphs [0051]-[0055] or anywhere else in Stein of a repeater providing identification codes detected from signals from the set of base stations detectable by the repeater, and the rejection of claim 4 is clearly erroneous. Claims 8, 15, 19, 24, 28, and 32 include elements similar to those recited in claim 4, and the rejections to these claims are also clearly erroneous.

The above discussion merely addresses a few example deficiencies in the Examiner's *prima facie* showing of anticipation. Assignee reserves the right to address other grounds. However, the foregoing is believed to be sufficient to overcome the Examiner's rejections discussed above.

In view of the clear error of the rejections, it is respectfully asserted that the claims now pending are in condition for allowance. Reconsideration of the present patent application and early allowance of all the claims is respectfully requested.

If there are any other fees due in connection with the filing of the Pre-Appeal Brief Request for Review, please charge the fees to our Deposit Account No. 17-0026. If a fee is required for an extension of time under 37 CFR 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,



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Dated: July 6, 2009

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